



1 collateral review with direct appeal.<sup>2</sup> For the reasons stated in  
2 the R. & R., Petitioner's objections are not well taken.

3 Having reviewed de novo those portions of the R. & R. to  
4 which Petitioner objected, the Court accepts the findings and  
5 recommendations of the Magistrate Judge. It therefore is ORDERED  
6 that Petitioner's motion for leave to file a first amended  
7 petition is granted in part and that no later than 45 days from  
8 the date of this Order, Respondent must file an Answer to grounds  
9 three and five of the FAP as well as the part of ground six that  
10 derives from those two claims.

11  
12 DATED: December 15, 2020

/s/

13 FERNANDO M. OLGUIN  
14 U.S. DISTRICT JUDGE  
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22 <sup>2</sup> Petitioner seems to think that the word "postconviction"  
23 encompasses direct appeal. (See, e.g., Objs. at 6.) It does not.  
24 Rather, because a conviction does not become final until the  
25 conclusion of any direct appeal, it refers to a form of collateral  
26 review. See, e.g., Pennsylvania v. Finley, 481 U.S. 551, 556  
27 (1987) (noting that criminal defendants have no right to counsel on  
28 discretionary direct appeal and stating that rule "appl[ies] with  
even more force to postconviction review"); Reed v. Ross, 468 U.S.  
1, 8 n.5 (1984) (noting that in some states, "errors that could  
have been raised on appeal" but were not "may not be raised for the  
first time in postconviction proceedings").